

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
for Authority to Increase Revenue Requirement  
to Recover the Costs to Deploy an Advanced  
Metering Infrastructure (U 39 M).

Application 05-06-028  
(Filed June 16, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING NOTICES OF INTENT TO CLAIM COMPENSATION**

**1. Summary**

This ruling responds to Aglet Consumer Alliance (Aglet), Californians for Renewable Energy, Inc. (CARE), and The Utility Reform Network's (TURN) notices of intent (NOI) to claim compensation in this proceeding. After consultation with the Assigned Commissioner, I find Aglet and TURN eligible to claim compensation pursuant to Pub. Util. Code § 1804.<sup>1</sup> CARE did not provide sufficient information in order to evaluate its eligibility and must supplement its NOI by September 23, 2005 so that I can ascertain its eligibility to claim compensation.

**2. NOI Requirements**

**2.1. Timely Filing**

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve

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<sup>1</sup> All statutory references are to the Public Utilities Code.

on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference in this proceeding occurred on July 14, 2005. The due date for NOIs was August 15, 2005. Aglet, CARE, and TURN filed their NOIs on August 15, 2005 and their NOIs are timely.<sup>2</sup>

## **2.2. Customer Status**

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers or small commercial bundled electricity customers.

Aglet meets the third definition of customer, as set forth in § 1802(b): it is an unincorporated nonprofit association organized to represent and advocate the interests of residential and small commercial customers of electric, gas, water, and telephone utilities in California.<sup>3</sup>

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<sup>2</sup> CARE did not attend the prehearing conference to enter an appearance. On August 15, 2005, CARE served a Motion to Intervene on the service list to this proceeding; however, the motion was never filed with the Commission’s Docket Office. By this ruling, I grant CARE’s request for Appearance status and have instructed the Process Office to place one representative onto the Appearance list and the remainder onto Information Only.

<sup>3</sup> D.98-04-059 directed intervenors either to file their articles of incorporation with the NOI, or to provide a reference to a previous filing. (*Id.* at 30.) Aglet chose the latter alternative, referring to articles of organization and bylaws it filed with its NOI in Application (A.) 99-03-014. All of Aglet’s members are residential utility customers. Approximately 30% of Aglet’s members also operate small businesses with separate energy utility service.

CARE states that it is a 501(c)(3) corporation comprised of low-income residential people of color. On this basis, we presume that CARE seeks to be found a customer under the third definition, as an organization organized by its bylaws or articles of incorporation to represent and advocate the interests of residential and small commercial customers. CARE does not provide a copy of its articles of incorporation or bylaws that identify that it is authorized to represent residential or small commercial customers, nor does it refer us to where it has previously filed these documents. Until such time as CARE provides such documents or citations, we cannot determine whether it is a customer. CARE may supplement its NOI by September 23, 2005 to provide its articles of incorporation, bylaws, or citation to where such documents were previously filed.

TURN meets the third definition of customer, as set forth in § 1802(b): it is an organization authorized by its articles of incorporation<sup>4</sup> to represent the interests of consumers, a portion of which are residential customers.

### **2.3 Significant Financial Hardship**

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant

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<sup>4</sup> D.98-04-059 directed intervenors either to file their articles of incorporation with the NOI, or to provide a reference to a previous filing. (*Id.* at 30.) TURN chose the latter alternative, referring to articles of incorporation it filed with its NOI in Application (A.) 98-02-017 and again in A.99-12-024. TURN has approximately 25,000 dues paying members, the majority of which it believes to be residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available as required by D.98-04-059, Finding of Fact 12.

financial hardship in the NOI. Alternatively, the customer may make the required showing in the request for an award of compensation.

“Significant financial hardship” means (1) either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, (2) or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. (Section 1802(g).)

In order to determine whether Aglet is eligible for compensation, we must find that the economic interest of the individual members of the Aglet is small in comparison to the costs of effective participation in the proceeding. Typical residential energy bills are in the order of \$1,200 annually, which is much less than Aglet’s estimated costs of participation. All of Aglet’s current members are residential customers, and most of the businesses owned by Aglet members are sole proprietorships without employees. None is a large commercial or industrial customer that might use great quantities of natural gas or electricity. In addition, Assigned ALJ Galvin found that Aglet had satisfied the significant financial hardship test on August 3, 2004 in A.04-05-021, et al. The present proceeding commenced June 16, 2005, within one year of the A.04-05-021, et al. finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in A.04-05-021, et al. is applicable here. Aglet has demonstrated that it will face a significant financial hardship in this proceeding, as set forth in § 1802(g).

In order to determine whether CARE is eligible for compensation, we must know which customer definition it meets. Once CARE has provided the

documents to support that it meets the third definition of customer described above, then we can evaluate whether the economic interest of the individual members of CARE are small in comparison to the reasonable cost of representation. Typically an organization submitting an NOI identifies the typical annual utility bill level for the customers it represents and describes how the cost of representation compares to typical bills of its members. (See, for example, the NOI of Aglet in this proceeding.) CARE must provide this showing so that we can complete our review of its eligibility and it should do so in the supplemental NOI directed above.

In order to determine whether TURN is eligible for compensation, we must find that the economic interest of the individual members of the TURN is small in comparison to the costs of effective participation in the proceeding. TURN has elected not to make that showing here. Instead, it relies on a rebuttable presumption of eligibility. Assigned ALJ Wetzell found that TURN had satisfied the significant financial hardship test on July 27, 2004 in Rulemaking (R.) 04-04-003. The present proceeding commenced June 16, 2005, within one year of the R.04-04-003 finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in R.04-04-003 is applicable here. If any party attempts to rebut this presumption, TURN is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal's filing.

#### **2.4 Nature and Extent of Planned Participation**

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

Aglet expects to participate actively through conducting discovery, preparing testimony, testifying, cross-examining parties, filing briefs and other pleadings as needed. Aglet expects to focus on the cost-effectiveness and ratemaking treatment of PG&E's proposed project. Aglet estimates the following as potential compensation amounts:

<b>Amount</b>	<b>Description</b>
\$40,040	120 hours of professional time by Aglet Director James Weil at \$280/hour, 46 hours at \$140/hour
\$ 620	Other direct expenses
\$40,660	<b>Total</b>

Aglet satisfactorily presents itemized estimates of the compensation it expects to request. Like any intervenor, Aglet must fully support its ultimate request for compensation, including substantiating that it has made a substantial contribution, and the reasonableness of the hours spent and hourly rates.

CARE states that it expects to fully participate in the proceeding and retain experts to "review and assess potential impacts of the Workshop report." (NOI, p. 4.) CARE also identifies that its members in Pittsburg, Long Beach, Los Angeles, Blythe, San Francisco, Santa Clara, San Jose, and the Medicine Lake Highlands California will bear a disparate environmental impact from PG&E's application. CARE identifies that some of its members have already purchased advanced metering from PG&E for their photovoltaic supply systems and it will be arguing that such customers should be exempt from the costs of PG&E's

proposed project. CARE estimates the following as potential compensation amounts:

<b>Amount</b>	<b>Description</b>
\$ 80,000	200 hours of professional time by attorneys at \$400/hour
\$ 20,000	100 hours of professional time by Regulatory/Economic Experts at \$200/hour
\$ 45,000	300 hours of professional time for Technical Assistance at \$150/hour
\$ 5,000	Other direct expenses
\$150,000	<b>Total</b>

CARE satisfactorily presents itemized estimates of the compensation it expects to request but several of the issues it identifies do not appear to be reasonably within the scope of the proceeding. For example, no workshop report has been or is scheduled to be filed, so reviewing a workshop report is not within the scope. Likewise, this proceeding only affects PG&E's service territory, so impact on CARE's members in other utility service territories does not appear relevant. Finally, this proceeding does not involve renewable or fossil fuel energy production or siting, so the proximity of CARE members to such supplies is not relevant. Finally, I note that the scale of the costs CARE identifies are quite large, compared to the limited issues it identifies that are within the scope of the proceeding. In its supplemental NOI, CARE may provide further clarification about its expected participation in this proceeding.

TURN expects to participate actively to address PG&E's quantification of infrastructure costs, quantification of expected benefits, and quantification of

demand response impacts. TURN estimates the following as potential compensation amounts:

<b>Amount</b>	<b>Description</b>
\$ 48,000	240 hours of professional time by TURN attorney Nina Suetake at \$200/hour
\$ 24,000	80 hours of professional time by TURN attorney Marcel Hawiger at \$300/hour
\$ 45,000	Consultant expenses
\$ 1,500	Other direct expenses
\$118,500	<b>Total</b>

TURN satisfactorily presents itemized estimates of the compensation it expects to request. Like any intervenor, TURN must fully support its ultimate request for compensation, including substantiating that it has made a substantial contribution, and the reasonableness of the hours spent and hourly rates.

**IT IS RULED** that:

1. Aglet Consumer Alliance (Aglet) has met the eligibility requirements of Pub. Util. Code § 1804(a). Aglet is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.
2. Aglet has established that it will face a significant financial hardship in this proceeding, as set forth in § 1802(g).
3. CALifornias for Renewable Energy, Inc. (CARE) has not met the eligibility requirements of § 1804(a) nor has it established significant financial hardship as set forth in §1802(g). CARE is authorized to file a supplement to its NOI by September 23, 2005 to provide the additional information required to evaluate its eligibility as a customer, its significant financial hardship, and its expected participation.



4. The Utility Reform Network (TURN) has met the eligibility requirements of § 1804(a). TURN is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.

5. TURN has established a rebuttable presumption of significant financial hardship. If any party attempts to rebut the presumption, TURN is granted leave to establish its significant financial hardship within 10 days of the rebuttal's filing.

6. A finding of eligibility in no way assures compensation.

Dated September 13, 2005, at San Francisco, California.

/s/ MICHELLE COOKE

Michelle Cooke  
Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated September 13, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.